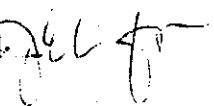


Board of County Commissioners Agenda Request

Agenda Item For: July 16, 1996
Date of County Commission Meeting

Date: July 11, 1996
Date of Distribution to the Board of County Commissioners

To: Honorable Chairman and Members of the Board of
County Commissioners

From: Herbert W.A. Thiele, Esq. 
County Attorney

Subject: Public Hearing on Nuisance Abatement Ordinance

STATEMENT OF THE ISSUE:

Conduct the second and final public hearing on the proposed public nuisance abatement ordinance and consider adoption of the ordinance.

BACKGROUND:

Upon the request of Commissioner Carol E. Kio-Green, research was performed to determine whether there was any existing ordinance in place which gave the Code Enforcement Board the authority to inspect commercial property and cite the owners for noncompliance with minimum safety standards. The specific property causing concern was "Billy's Bar." It was determined there was no such ordinance in place, but that other counties and municipalities remedy such problems utilizing a local nuisance abatement ordinance (which Leon County currently does not have). Pursuant to Chairman Bruce J. Host's request, such an ordinance has been drafted for the Board's consideration. A users group was formed and met twice to discuss and produce a draft of the ordinance.

The Board of County Commissioners has implemented, on a trial basis, a procedure for ordinance adoption that includes a workshop where public comment is received. This workshop was conducted on June 18, 1996. Public comment was received at this workshop. Comments received at the workshop were addressed in the latest draft of the ordinance, which is attached as Attachment 1.

ANALYSIS:

The ordinance makes a property owner (whether the property is commercial or residential) responsible for keeping his or her property free from debris at his or her own expense, and subject to Code Enforcement Board action for failure to do so. Debris includes but is not necessarily limited to dilapidated structures, including real property, personal property or fixtures which have caused or may cause the property to threaten the public health, safety, or welfare, or adversely affect and impair the economic welfare of other property. Such debris is declared under the ordinance to constitute a public nuisance which may be abated by the County should the property owner fail to do so after being cited by a code inspector, and the matter is heard at a Code Enforcement Board hearing. There is a fiscal impact associated with this ordinance in relation to abatement (e.g., demolition of the dilapidated structure) when the owner fails to abate the nuisance. Staff will be bringing individual budget requests for each situation where staff feels the abatement procedure should be followed. The amount to abate the nuisance would be requested from contingency in those situations. Any costs incurred by the County in abating the nuisance can be charged back to the property owner in the form of a lien.

The ordinance also expands the Code Enforcement Board's jurisdiction to cover the expanded public nuisance category created by the ordinance, as well as fixes a "glitch" in reciting the Environmental Management Act sections so that the entire EMA is included in the CEB jurisdiction. In addition, the definition of code inspector in the junk code is amended to reflect the reorganization of Growth and Environmental Management Department, which was done subsequent to the adoption of the junk code.

In finalizing the ordinance for adoption, it was discovered that two sections in the minimum housing code refer appeals of the minimum housing code to the Board of Adjustment and Appeals. This conflicts with the Code Enforcement Board's jurisdiction over minimum housing violations. In order to correct this inconsistency, staff recommends that those two sections (5-311 and 5-312) be repealed. A copy of those sections as they appear in the Code Book is attached as Attachment 2.

The ordinance is applicable to the unincorporated areas of the County. The City of Tallahassee has codes in place to address unsafe buildings (residential and commercial) as well as litter, debris and brush/weeds/grass growth, within the incorporated area. The proposed County ordinance does not address brush/weeds/grass growth, based on the rural nature of the unincorporated areas of the County.

Workshop Agenda Request - Nuisance Abatement Ordinance
July 16, 1996
Page 3

OPTIONS:

1. Conduct second and final public hearing and adopt the ordinance as presented.
2. Conduct second and final public hearing and adopt an amended version of the ordinance.
3. Direct staff otherwise.

RECOMMENDATION: Option 1.

Attachment #1: Proposed Ordinance
Attachment #2: Sections 5-311 and 5-312

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